

## REMARKS

Applicants have amended claim 1 to recite expressly a limitation that was included inherently in the language of original claim 1.

Applicants submit with this Amendment a terminal disclaimer to overcome the provisional double patenting rejections of claims 1, 2, 4-8, 10, 13, 14 and 16.

Claim 1 has been rejected under 35 USC 112, first paragraph, for lack of written description, because in the Examiner's view the expression "3% by weight" in claim 1 is not supported by the specification in which the expression "3% by mass" is used. Applicants respectfully traverse this rejection.

To satisfy the written description requirement, the disclosure in the specification need not recite the claimed invention in *haec verba*. *Regents of the Univ. of Cal. v. Eli Lilly & Co.*, 119 F.3d 1559, 1566-67 (Fed. Cir. 1997). Rather, "the test for sufficiency is whether the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date." *Ariad Pharmaceutical, Inc. v. Eli Lilly and Co.*, 598 F.3d 1336 (Fed. Cir. 2010).

The expression "3% by mass" in the specification clearly conveys persons skilled in the art that applicants had possession of the invention defined by "3% by weight." However, solely to expedite prosecution, applicants have amended claim 1 to replace "3% by weight" by its synonym "3% by mass." Accordingly, this written description rejection should be withdrawn.

Claims 1, 2, 4, 5, 7, 8, 10, 14 and 16 have been rejected under 35 USC 103(a) on U.S. Patent No. 4,726,999 (Kohyama). Applicants respectfully traverse this rejection.

Claim 1 recites the laminate film comprising a heat sealable layer having a melting point of not more than 150°C, a substrate layer made of a crystalline polypropylene resin, and an intermediate layer disposed between the heat sealable layer and the substrate layer and comprising an  $\alpha$ -olefin copolymer containing a cold xylene-soluble fraction in a proportion of not more than 3% by mass. The Examiner states that Kohyama discloses a laminate of a

substrate layer and a heat sealable layer but admits that Kohyama fails to disclose the claimed three-layer structure. See paragraphs 7 and 18 of the Action. Nonetheless, the Examiner contends that the claimed laminate film would have been obvious over Kohyama. Applicants respectfully disagree.

The Examiner's reasoning to render claim 1 obvious includes two steps. First, the Examiner contends, "It would have been obvious to one having ordinary skill in the art at the time the invention was made to have disposed an additional heat seal layer on the crystalline propylene substrate layer opposite the heat seal layer disclosed by Kohyama in order to provide an additional heat sealing surface to the film so that lap seals could be formed with the film." See paragraph 19 of the Action. Then, based on this heat seal layer/substrate layer/additional heat seal layer laminate, the Examiner equates Kohyama's heat seal layer to the claimed heat sealable layer, Kohyama's substrate layer to the claimed intermediate layer and Kohyama's additional heat seal layer to the claimed substrate layer. See paragraph 20 of the Action.

It is true that Kohyama states that "[i]t is an object of this invention to provide a laminated structure having improved properties and comprising a substrate layer of a crystalline propylene resin and positioned in direct contact with at least one surface thereof, a heat-sealable layer of a specific crystalline random propylene copolymer." See column 3, lines 47-52, of Kohyama. However, this heat sealable layer is not a substrate layer.

The claimed laminate film is sealed by adhering a portion of the sealable layer to another portion of the same sealable layer, as required by claim 1. Accordingly, the claimed substrate layer need not be a heat sealable layer. Furthermore, persons skilled in the art would know that a heat sealable layer having a low melting point, such as Kohyama's heat seal layer, would not satisfy some of the requirements that a substrate of a laminate film must meet. See, for example, paragraph [0033] of the specification. Accordingly, persons of ordinary skill in the art would have thought that Kohyama's heat seal layer does not correspond to the claimed substrate layer.

Solely to expedite prosecution, applicants have amended claim 1 to state that the substrate layer is not configured to be heat sealed. Kohyama's heat seal layer, which the Examiner equates to the claimed substrate layer, is configured to be heat sealed, contrary to this limitation.

The rejection of claims 1, 2, 4, 5, 7, 8, 10, 14 and 16 under 35 USC 103(a) on Kohyama should be withdrawn because Koyama does not teach or suggest the claimed three-layer laminate film, as explained above.

The remaining obviousness rejection relies on Kohyama and thus should be withdrawn as well because Kohyama does not provide the teachings for which it is cited.

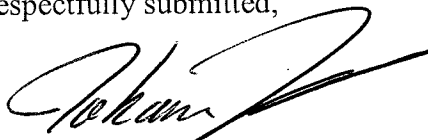
In light of the above, a Notice of Allowance is solicited.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 358362011500.

Respectfully submitted,

Dated: September 22, 2010

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